

REMARKS

In an Office Action mailed September 21, 2006, claims 1-6, 8, 10, 11, 13-16, 19, 20, 25, 27-29 and 32 were rejected under 35 U.S.C. §102(e) as being anticipated by Yamasaki et al. (U.S. Published Patent Application No. 2003/0011683; hereinafter “Yamasaki”); claims 7, 12, 17 and 18 were rejected under 35 U.S.C. §103(a) as being unpatentable over Yamasaki in view of Wang; and claims 21-24 were rejected under 35 U.S.C. §103(a) as being unpatentable over Yamasaki in view of Wang and further in view of Katseff. Applicant respectfully traverses and requests reconsideration.

Applicant notes that the statuses of the claims have been corrected above to reflect their proper status. In Applicant’s response dated October 18, 2004, the status of all claims that were not either canceled or amended at that time were erroneously listed as “previously presented”, whereas their correct status should have been indicated as “original.” These errors were mistakenly propagated through subsequent responses by Applicant. Having now noticed these errors, and taking into account any interim amendments, cancellations or new claims between the response of October 18, 2004 and the instant response, Applicant has corrected the status of claims 3-5, 7, 10-12, 14-18, 20-24 and 28 to what is believed to be the correct status, “original.” Applicant regrets these errors and respectfully submits that the currently indicated statuses above accurately reflect the current state of the claims.

As an initial matter, Applicant notes M.P.E.P. § 904.03, which states in part:

It is a prerequisite to a speedy and just determination of the issues involved in the examination of an application that a careful and comprehensive search . . . be made in preparing the first action on the merits so that the second action on the merits can be made final or the application allowed with no further searching other than to update the original search. It is normally not enough that references be selected to meet only the terms of the claims alone, especially if only broad claims are presented; but the search should, insofar as possible, also cover all subject matter which the

examiner reasonably anticipates might be incorporated into applicant's amendment. . . .

In selecting the references to be cited, the examiner should carefully compare the references with one another and with the applicant's disclosure to avoid the citation of an unnecessary number. . . . Multiplying references, any one of which is as good as, but no better than, the others, adds to the burden and cost of prosecution and should therefore be avoided. . . .

In all references considered . . . the examiner should study the specification or description sufficiently to determine the full value of the reference disclosure relative to the claimed or claimable subject matter.

See also M.P.E.P. § 707.02 (noting the importance of “finding the best references on the first search and carefully applying them” and that “supervisory patent examiners are expected to personally check on the pendency of every application which is up for the third or subsequent Office action with a view to finally concluding its prosecution.”)

Notwithstanding these instructions, Applicant notes that the instant Office Action is the sixth substantive Office Action presenting the sixth different grounds of rejection (based on application of nine different references) as summarized in the table below:

Office Action Mailing Date	Final/Non-Final	Statutory Basis of Rejection	Cited Reference(s)	Affected Claims
July 16, 2004	Non-Final	102	Schrader	8-13, 15-17, 19-22, 25-31
		103	Schrader, Bellinger	1-7, 14, 18
March 1, 2005	Non-Final	102	Platt	1, 3, 4, 6-8, 10, 12, 13, 15-20, 25, 27
		103	Platt, Katseff	2, 5, 11, 14, 21-24, 28, 29
August 10, 2005	Non-Final	102	Cobbley	1-8, 10-20, 25, 27
		103	Cobbley, Katseff	21-24, 28, 29
January 24, 2006	Final	112, 1st ¶	--	5, 13, 19
		102	Chaddha	1-3, 5, 6, 8, 10, 13, 15, 19, 20, 25, 27, 29
		103	Chaddha, Wang	4, 7, 11, 12, 14, 16-18, 32
May 15, 2006	Non-Final	102	Patton	1, 2, 27
		103	Patton, Wang	3-8, 10-20, 25, 29, 32
		103	Patton, Wang, Katseff	21-24, 28
September 21, 2006	Non-Final	102	Yamasaki	1-6, 8, 10, 11, 13-16, 19, 20, 25, 27, 28, 29, 32
		103	Yamasaki, Wang	7, 12, 17, 18
		103	Yamasaki, Wang, Katseff	21-24

For the reasons set forth below, Applicant notes that the current Office Action presents no better grounds for rejecting the instant application than any of the five previous (now overcome) grounds. Applicant believes that Examiner, having presented numerous insufficient grounds for rejecting the instant application, has exhaustively researched the available prior art in light of the teachings of the instant application and respectfully asserts that prosecution of the instant application will not be advanced by further rejections of the currently pending claims. In short, Applicant respectfully requests that the best available prior art be cited, if it hasn't already, so that Applicant may at least put the instant application in the best possible form for appeal, or pass the claims to allowance.

Turning now to the rejections under Section 102, Applicant notes that Yamasaki generally teaches digital cameras in which digital images (an accompanying index information) may be transferred from one camera to another without the intervention of a personal computer or similar device. (paragraph 0002) In particular, Yamasaki teaches that a first camera can receive "index data" (in the preferred form of a "thumbnail image") from an "external device" (i.e., a second camera), which index data corresponds to image data stored on the external device, not the first camera. (paragraphs 0011 and 0012; paragraphs 0135 – 0177 (describing example illustrated in FIGs. 15-23 of how image data is transferred between cameras based on transmitted index information); FIG. 24 and paragraphs 0179 – 0195 (describing processing performed by the "control section 18" when transferring images between cameras)) Once again, to the extent that Yamasaki teaches a camera receiving index information from an external source, the received index information corresponds to image data residing on the external source, not the receiving camera.

In stark contrast, the instant claims recite, as reflected in independent claims 1, 13, 19, 25, 27 and 29, capturing a subject in a media file (e.g., an image) by a media capture device (e.g., a camera) and associating index information received from an external source with the media file and, as reflected in claim 8 in addition to the above-listed claims, that the index information provided by the external source relates to the subject being captured in the media file. As noted above, Yamasaki does not teach that the “index information” (i.e., Yamasaki’s image thumbnails) sent by the “external source” (i.e., Yamasaki’s second or transmitting camera) relates to the subject captured in a media file in the camera receiving the index information (i.e., Yamasaki’s first or receiving camera). (Note that these arguments are essentially identical to those set forth in Applicant’s previous response dated June 21, 2006 in response to the Patton reference.) For these reasons, Applicant respectfully submits that Yamasaki fails to anticipate independent claims 1, 8, 13, 19, 25, 27 and 29, which claims are therefore in suitable condition for allowance. Furthermore, claims 2-6, 10, 11, 14-16, 20, 28 and 32, being dependent upon and thereby incorporating the limitations of claims 1, 8, 13, 19, 25, 27 and 28, respectively, are likewise not anticipated by, and therefore allowable over, Yamasaki.

Claims 7, 12, 17 and 18 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Yamasaki in view of Wang. As demonstrated above, Yamasaki fails to teach all of the limitations of the independent claims (claims 1, 8 and 13, respectively) from which they depend. However, the application of Wang does not remedy the deficiencies of Yamasaki. Indeed, Wang teaches:

... a method for recognizing a media sample, such as an audio sample, given a database index of a large number of known media files. The database index contains fingerprints representing features at particular locations of the indexed media files. The unknown media sample is identified with a media file in the database (the winning media file) whose relative locations of

fingerprints most closely match the relative locations of fingerprints of the sample. (Wang, paragraph [0018])

It is Applicant's understanding that the "fingerprints" and "landmarks" (Wang, paragraph [0039]) are being compared to the presently claimed "index information" to the extent that Wang teaches the use these fingerprints and landmarks when searching for matching audio samples (Wang, paragraphs [0040], [0081]). However, Wang clearly teaches that the fingerprints and landmarks are derived directly from the audio samples being analyzed (Wang, paragraph [0039]). Stated another way, Wang's "index information", unlike the presently claimed invention, is not received from an external source, but is instead derived from the media file captured by the media capture device. As such, it can be seen that the combination of Patton in view of Wang fails to establish prima facie obviousness of claims 7, 12, 17 and 18 to the extent that the combination of references fails to teach each and every claim limitation of claims 7, 12, 17 and 18. (See M.P.E.P. § 2142: "To establish a prima facie case of obviousness . . . the prior art reference (or references when combined) must teach or suggest all the claim limitations.")

Claims 21-24 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Yamasaki in view of Wang and further in view of Katseff. Applicant notes that claims 21-24 are dependent upon independent claim 19. Yamasaki, as described above, fails to teach each and every limitation of independent claim 19, which failure is not remedied by the additional teachings of Wang and Katseff. Katseff teaches a "a networked multimedia information system which may be utilized to record, store and distribute multimedia presentations together with any supplemental materials that may be referenced during the presentation." (Katseff, abstract) To the extent that Katseff teaches anything about receiving "index information" (presumed by Applicant to be the "supplemental materials" referred to by Katseff), it appears that the index information is not received by the media capture device, as presently claimed (Katseff, Fig. 3;

column, 7, lines 26-44) but is instead provided to a downstream device (Katseff, server 40). Because claims 21-24 and 28 incorporate the limitations of the independent claims from which they depend, Applicant submits that the combination of Yamasaki in view of Wang and further in view of Katseff fails to establish a prima facie case for obviousness of claims 21-24. Therefore, Applicant respectfully submits that claims 21-24 are in suitable condition for allowance.

Applicant respectfully submits that the claims are in condition for allowance and respectfully requests that a timely Notice of Allowance be issued in this case. The Examiner is invited to contact the below listed attorney if the Examiner believes that a telephone conference will advance the prosecution of this application.

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